

# The Atkin Firm, LLC

Attorney at Law

By: John C. Atkin, Esq.\*

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\* Member of NJ, NY, and PA Bar

55 Madison Avenue, Suite 400  
Morristown, NJ 07960

400 Rella Boulevard, Suite 165  
Suffern, NY 10901

Tel: (973) 314-8010  
Fax: (833) 693-1201  
Email: JAtkin@atkinfirm.com

September 8, 2023

The Honorable Marcia M. Henry, U.S.M.J.  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**Re: 1:23-cv-02996-NGG-MMH, Plaintiff's Second Letter Motion for Extension of Time Within Which to Effectuate Service on John Doe Defendant**

Judge Henry:

As you know, I represent Plaintiff in the above-captioned matter. Plaintiff respectfully requests an order extending the time within which to serve Defendant with a summons and Complaint. This is Plaintiff's second request for an extension of time within which to effectuate service of process.

On April 20, 2023, Plaintiff filed the instant case against Defendant John Doe subscriber assigned IP address 96.232.85.233 ("Defendant"), alleging Defendant infringed thirty of Plaintiff's works through the BitTorrent protocol. [Dkt. No. 1]. Because Defendant is only known to Plaintiff by Defendant's IP address, on April 28, 2023, Plaintiff filed a Motion for Leave to Serve a Third-Party Subpoena Prior to a Rule 26(f) Conference ("Motion") in order to serve a third-party subpoena on Defendant's ISP. [Dkt. No. 7].

Pursuant to Federal Rule of Civil Procedure 4(m), Plaintiff was originally required to effectuate service on the Defendant by no later than July 19, 2023.

Because Plaintiff's Motion was pending before the Court at the time, on July 5, 2023, Plaintiff filed its First Letter Motion for Extension of Time Within Which to Effectuate Service on John Doe Defendant. ("First Letter Motion for Extension"). [Dkt. No. 8].

On July 19, 2023, Plaintiff was granted leave to serve a third-party subpoena on Defendant's ISP to obtain the Defendant's identifying information. [Dkt. No. 9]. As part of that relief, the Court ordered that if Plaintiff served the subpoena within 30 days, the Rule 4(m) deadline

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would be extended “to either 30 days after the expiration of the period within which the Doe Defendant or the ISP may move to quash or modify the Subpoena, or until 30 days following the denial of any such motion.” [D.E. 9]. However, immediately after entering that Order, the Court also entered a Text Order granting Plaintiff’s First Letter Motion for Extension, which extended the service deadline to September 19, 2023.

Plaintiff issued the subpoena on or about July 20, 2023 and, in accordance with the time allowances provided to both the Defendant and ISP, expects to receive the ISP’s response on or about November 28, 2023.

Upon receipt of the ISP response, Plaintiff intends to conduct a further investigation to determine whether the individual identified by the ISP is the appropriate defendant for this action, and, if a good faith basis continues to exist, to proceed against that individual (or someone else), to amend the Complaint, and place the summons and Amended Complaint with the process server to attempt service of process.

For the foregoing reasons, Plaintiff respectfully requests that the time within which it must effectuate service of a summons and Complaint on Defendant be extended sixty (60) days from November 28, 2023 (the date Plaintiff expects to receive the ISP response), to **January 27, 2024**.

Respectfully Submitted,

*/s/ John C. Atkin*

John C. Atkin, Esq.